

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN THE MATTER OF:  
**ROBBIN A. RANDOLPH,**

Debtor(s)

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Case No: B-1081566 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on August 31, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On August 31, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtor proposes a monthly plan payment of \$50.00 for twelve months, followed by a plan payment of \$4,195.00 for a minimum of 24 months. The Debtor does not estimate that general unsecured creditors will receive any dividend.
5. In Schedule “I”, the Debtor lists total net monthly income of \$123.00 consisting of VA disability. In Schedule “J”, the Debtor lists expenses of \$333.00 per month, leaving insufficient excess income that can be devoted to the Chapter 13 plan, particularly once the payments increase to \$4,195.00 per month in October of 2011.
6. The Trustee objects to confirmation of the plan in that the Debtor does not appear to have the ability to make payments under the plan as required by 11 U.S.C. §1325(a)(6). The Debtor has proposed monthly plan payments in excess of the Debtor’s disposable income every month according to Schedules I and J. The plan is not feasible and cannot be confirmed on that basis.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325(a)(6) and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 4<sup>th</sup> day of November, 2010.

s/Benjamin E. Lovell  
Benjamin E. Lovell  
Attorney for the Trustee  
State Bar No: 23266  
P.O. Box 3613  
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Robbin Randolph, 1209 Vickers Ave., Durham, NC 27707, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 4<sup>th</sup> day of November, 2010.

s/Benjamin E. Lovell  
Benjamin E. Lovell, Esq.  
Attorney for the Standing Trustee